

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

RAYMOND W. LONDON, on behalf of  
himself and all others similarly situated,  
Plaintiff,  
vs.

NEW ALBERTSON'S, INC.;  
CERBERUS CAPITAL  
MANAGEMENT (CALIFORNIA), LLC;  
and SAVE MART SUPERMARKETS  
and DOES 2 through 25, inclusive,

**CASE NO. 08-CV-1173 H (CAB)**

**ORDER DENYING AS MOOT  
DEFENDANTS' MOTIONS TO  
DISMISS PLAINTIFF'S  
COMPLAINT**

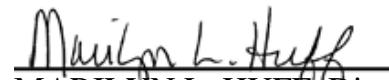
19 On May 29, 2008, Plaintiff Raymond W. London (“Plaintiff”) filed a complaint in the  
20 Superior Court of the State of California, County of San Diego, against defendants New  
21 Alberton’s, Inc. and Cerberus Capital Management (California), LLC (“Cerberus”). (See  
22 Notice of Removal.) On July 1, 2008, Plaintiff added Save Mart Supermarkets as an additional  
23 named defendant pursuant to Cal. Code Civ. P. § 474. (Id., Ex. A.) On July 2, 2008,  
24 defendants New Albertson’s, Inc. and Cerberus removed the entire action to this Court. (Doc.  
25 No. 1.)

On July 10, 2008, New Albertson's, Inc. and Cerberus filed separate motions to dismiss Plaintiff's complaint. (Doc. Nos. 5, 11.) On July 28, 2008, Plaintiff filed an amended complaint. (Doc. No. 14.) Accordingly, the Court denies as moot Defendants' motions to

1 dismiss Plaintiff's original complaint, without prejudice to Defendants' ability to move for  
2 dismissal of Plaintiff's amended complaint.

3 IT IS SO ORDERED.

4 DATED: August 4, 2008

5   
6 MARILYN L. HUFF, District Judge  
7 UNITED STATES DISTRICT COURT

8 COPIES TO:  
9 All parties of record.

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